

C. APPLICANT'S COMMENTS

Claims 1-6, 9-18 are pending in this Application, with Claims 7, 8, 19, 20 canceled, with Claims 1, 11 being amended and Claims 21-24 being added to further clarify the invention. Applicant has amended the drawings in accordance with the Examiner's suggestion. No new matter is added by way of these amendments, and the amendments are supported throughout the Specification and the drawings. Reconsideration of Claims 1-6, 9-18 and favorable consideration of Claims 21-24 is respectfully requested.

The Examiner's rejections will be considered in the order of their occurrence in the Official Action.

Paragraph 1 of the Official Action (Drawings)

The Official Action objected to the drawings under 37 C.F.R. 1.83(a) because the tubular member having a longitudinal slot is not shown in the drawings. The Applicant respectfully submits that the tubular member is represented in Figures 3 and 4 of the drawings as reference numeral 44. However, the Applicant also submits with this Response an amended Figure 1 (clean sheet and marked up sheet). The Applicant submits that the drawings are acceptable and requests the objection to be withdrawn.

Paragraph 2 of the Official Action

The Official Action rejected as-filed Claims 1-4, 11-14 under 35 U.S.C. §102(b) as being anticipated by Willis (U.S. Patent No. 393,411). The Applicant respectfully disagrees with this rejection for at least the following reasons.

It is important to first briefly discuss 35 U.S.C. §102 and its application to the present application. Under 35 U.S.C. §102(b), anticipation requires that the prior art reference both (1) disclose, either expressly or under the principles of inherency, every limitation of the claim, and (2) be enabling thus placing the allegedly disclosed matter in the possession of the public.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Hence, under 35 U.S.C. §102, anticipation requires that **each and every element** of the claimed invention be disclosed in the prior art. *W.L. Gore & Assocs. v. Garlock, Inc.*, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Anticipation also requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). In addition, the prior art reference must be enabling, thus placing the allegedly disclosed matter in the possession of the public. *Akzo N.V. v. United States Int’l Trade Comm’n*, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987) (emphasis added).

Independent Claim 1 (as amended) has the following features:

1. (Currently Amended) An air suspension grain cleaner system, comprising:
 - a frame;
 - a cleaning chamber attached to said frame;
 - a blower unit fluidly connected to a lower portion of said cleaning chamber;
 - a grain inlet fluidly connected to said cleaning chamber;
 - an exhaust chamber fluidly connected to an upper portion of said cleaning chamber;
 - a cleaning damper within said cleaning chamber, wherein said cleaning damper is comprised of a wall member that extends inwardly to reduce the cross sectional size of said cleaning chamber; and
 - a cap member attached to the upper portion of said wall member and a wall of said cleaning chamber.

Independent Claim 11 (as amended) has the following features:

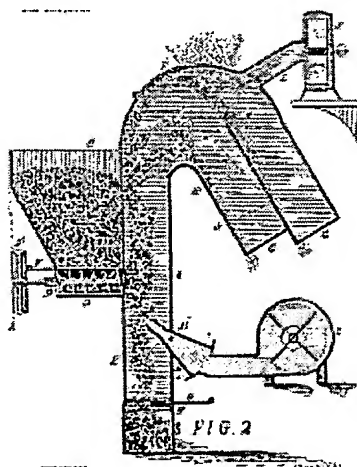
11. (Currently Amended) An air suspension grain cleaner system, comprising:
 - a cleaning chamber having a vertically aligned tubular structure;
 - a blower unit fluidly connected to a lower portion of said cleaning chamber;
 - a grain inlet fluidly connected to said cleaning chamber;
 - an exhaust chamber fluidly connected to an upper portion of said cleaning chamber;

an exhaust damper within said exhaust chamber; and
a first control member positioned between said grain inlet and said cleaning chamber to prevent pressurized air from passing through said grain inlet, wherein said first control member is a tubular member rotated by a motor unit that has a longitudinal slot for receiving grain and for dispensing grain into said cleaning chamber without significantly reducing air pressure within said cleaning chamber.

Independent Claim 21 (new) has the following features:

21. (New) An air suspension grain cleaner system, comprising:
a frame;
a cleaning chamber attached to said frame;
a blower unit fluidly connected to a lower portion of said cleaning chamber;
a grain inlet fluidly connected to said cleaning chamber;
an exhaust chamber fluidly connected to an upper portion of said cleaning chamber;
a cleaning damper within said cleaning chamber; and
a first control member positioned between said grain inlet and said cleaning chamber to prevent pressurized air from passing through said grain inlet, wherein said first control member is a tubular member rotated by a motor unit that has a longitudinal slot for receiving grain and for dispensing grain into said cleaning chamber without significantly reducing air pressure within said cleaning chamber.

Willis teaches a "grain separator". More particularly, Willis merely teaches a hopper (C) with an auger (D) providing the grain and other debris to a vertical tube (E) wherein a blower (L) forces the lighter particles (including grain) upwardly while the heavier debris falls downwardly into the basis (N) (see figure below).



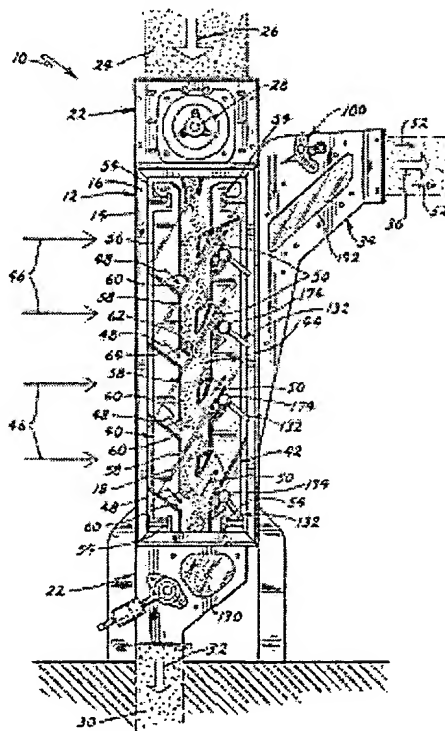
Willis (U.S. Patent No. 393,411)

The Applicant respectfully submits that Willis does not qualify as appropriate prior art under 35 U.S.C. §102(b) as Willis does not disclose (expressly or inherently) all of the features of independent Claims 1, 11, 21. Therefore, Applicant respectfully submits that independent Claims 1, 11, 21 are patentable over the cited reference for at least these reasons. Accordingly, Applicant respectfully requests that the Examiner withdraw the outstanding rejection as applied to independent Claims 1, 11, 21, since the application is in condition for allowance. Accordingly, the dependent claims, which depend there from are also in condition for allowance.

Paragraph 3 of the Official Action

The Official Action rejected as-filed Claims 1-7, 9, 11-17, 19 under 35 U.S.C. §102(b) as being anticipated by Hauch (U.S. Patent No. 6,405,405). The Applicant respectfully disagrees with this rejection for at least the following reasons.

Hauch teaches a “product cleaner with air flow control” that provides a vertical drop, multi-pass product cleaner with air flow control on the outlet side of the cleaner, wherein the air flow control includes dampers movable between open and constricted positions.



Hauch (U.S. Patent No. 6,405,405)

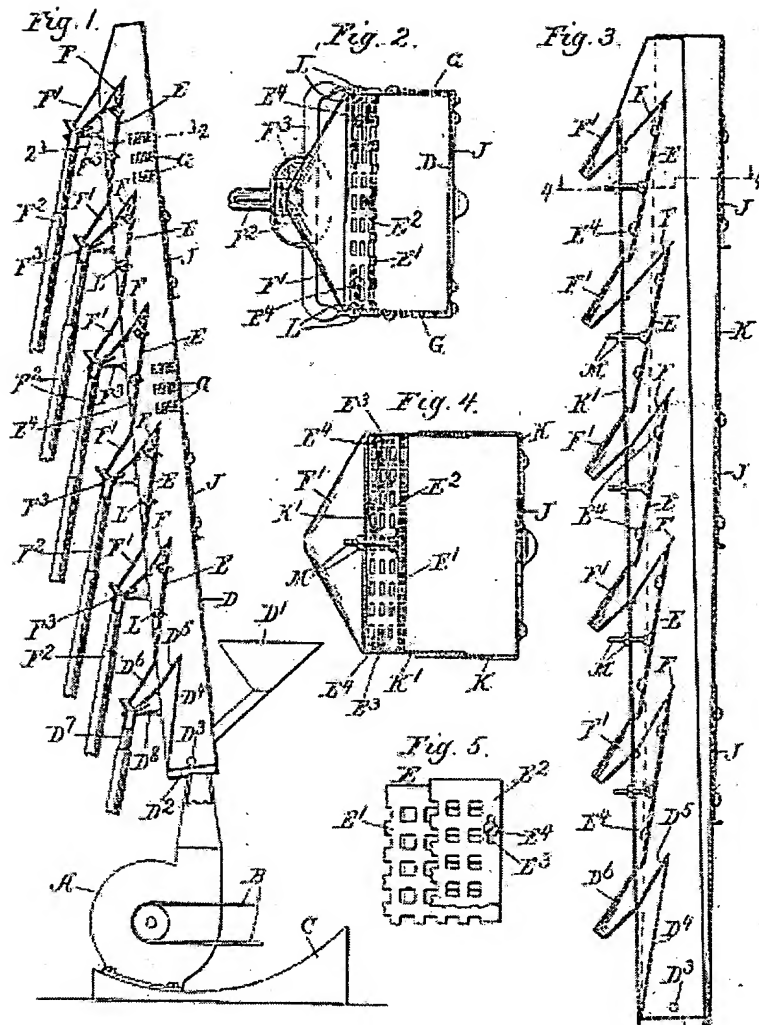
BEST AVAILABLE COPY

The Applicant respectfully submits that Hauch does not qualify as appropriate prior art under 35 U.S.C. §102(b) as Hauch does not disclose (expressly or inherently) all of the features of independent Claims 1, 11, 21. Therefore, Applicant respectfully submits that independent Claims 1, 11, 21 are patentable over the cited reference for at least these reasons. Accordingly, Applicant respectfully requests that the Examiner withdraw the outstanding rejection as applied to independent Claims 1, 11, 21, since the application is in condition for allowance. Accordingly, the dependent claims, which depend there from are also in condition for allowance.

Paragraph 4 of the Official Action

The Official Action rejected as-filed Claims 1, 7 under 35 U.S.C. §102(b) as being anticipated by Hedfeldt (U.S. Patent No. 971,608). The Applicant respectfully disagrees with this rejection for at least the following reasons.

Hedfeldt teaches a “cleaning and separating machine” that has a blower unit with a plurality of exits distally spaced in a vertical manner for separating various densities of materials (e.g. coffee). Below are the figures illustrating the structure of Hedfeldt.



Hedfeldt (U.S. Patent No. 971,608)

The Applicant respectfully submits that Hedfeldt does not qualify as appropriate prior art under 35 U.S.C. §102(b) as Hedfeldt does not disclose (expressly or inherently) all of the features of independent Claims 1, 11, 21. Therefore, Applicant respectfully submits that independent Claims 1, 11, 21 are patentable over the cited reference for at least these reasons. Accordingly, Applicant respectfully requests that the Examiner withdraw the outstanding rejection as applied to independent Claims 1, 11, 21, since the application is in condition for allowance. Accordingly, the dependent claims, which depend there from are also in condition for allowance.

Paragraph 5 of the Official Action

Paragraph 5 of the Official Action stated that Claims 8, 10, 18 and 20 were allowable if rewritten in independent form. Claim 1 incorporates the features of Claims 7, 8. Claim 11 incorporates the features of Claims 19, 20. Claim 21 combines the features of Claims 1, 9, 10. All of these independent claims are respectfully submitted to be in condition for allowance.

D. CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited. Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully asked that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. Alternatively should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, they are invited to telephone the undersigned.

Respectfully submitted,



Michael S. Neustel (Reg. No. 41,221)
NEUSTEL LAW OFFICES, LTD
2534 South University Drive, Suite No. 4
Fargo, North Dakota 58103

2-17-05
Date

Telephone: (701) 281-8822
Facsimile: (701) 237-0544
e-mail: michael@neustel.com

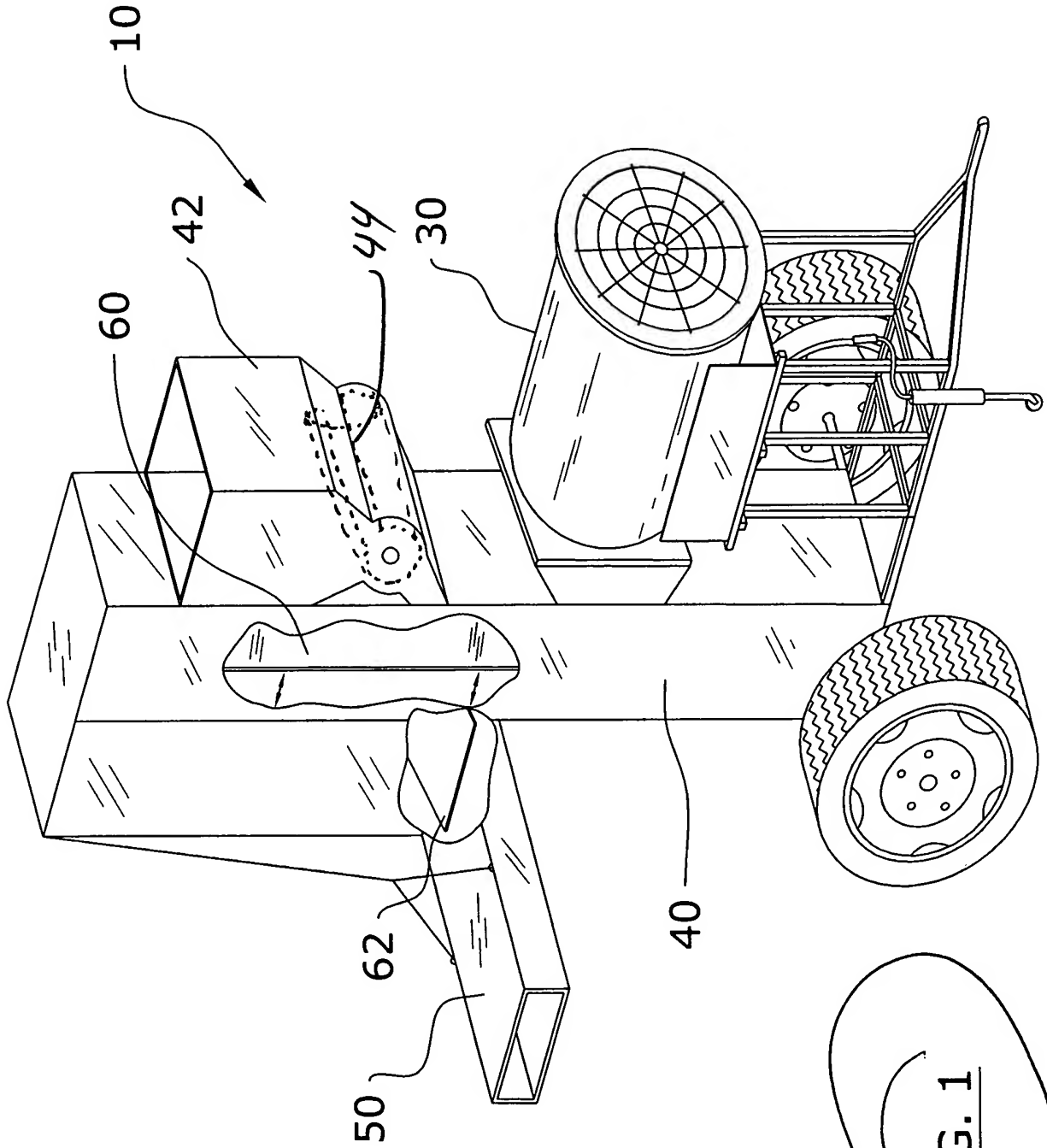


FIG. 1

Marked Up Version